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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,828	03/08/2001	Joseph B. Rissin		3652

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STEPHEN E. FELDMAN, P.C.  
12 East 41st Street  
New York, NY 10017

EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 11/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/800,828

Applicant(s)

RISSIN ET AL.

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 14 is/are rejected.
- 7) ☒ Claim(s) 11-13 and 15-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Allowable Subject Matter***

The indicated allowability of claims 2-8 is withdrawn in view of the newly discovered reference(s) to JP 2001-17211. Rejections based on the newly cited reference(s) follow.

Claims 11-13 and 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 4, 2003 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 2, 5, 6 and 8 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by JP 2001-17211.

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JP 2001-17211 (figures 1-3) teaches jewelry clasp structure including a circular base plate with an opening 3 with a funnel-shaped entrance therein for a jewelry post 10, two facing spring fingers 4 extend from the surface of the circular base plate so as to inherently frictionally engage the jewelry post and two tabs 7 inherently acting as gripping tabs to aid in removal of the jewelry clasp.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-17211 in view of Burkett (US 4630453).

JP 2001-17211 (figures 1-3) teaches jewelry clasp structure including a circular base plate with an opening 3 with a funnel-shaped entrance therein for a jewelry post 10, two facing spring fingers 4 extend from the surface of the circular base plate so as to inherently frictionally engage the jewelry post and two tabs 7 inherently acting as gripping tabs to aid in removal of the jewelry clasp. The difference is that the gripping tabs are shorter than the spring fingers or they do not have a clearly different width than the finger tabs. However, Burkett (figure 1) teaches jewelry clasp structure including a base plate 3 with an opening 11 therein for a jewelry post, two facing spring fingers 2 extending from the base plate so as to frictionally engage the jewelry post and two finger tabs 5 extending from the base plate 3 via the wings 4 to aid in removal of the

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jewelry clasp. The gripping tabs extend beyond the spring fingers so as to be more accessible. As it would be beneficial to make grasping the gripping tabs easier so as more readily attach or detach the jewelry clasp, it would have been obvious to modify the jewelry clasp of JP 2001-17211 so that the gripping tabs extend further than the spring fingers in view of Burkett suggesting such structure as being desirable so as to make the gripping tabs more accessible. In regard to claim 4, Burkett suggests making the gripping tabs of different width than the spring fingers so as to have greater ease of distinguishing between the two and it would have been obvious to modify the structure of JP 2001-17211 so as to have gripping tabs of a different width from the spring fingers so as to more readily distinguish the two by touch.

Claims 3, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-17211 in view of Brumbach (US 1201549).

JP 2001-17211 (figures 1-3) teaches jewelry clasp structure including a circular base plate with an opening 3 with a funnel-shaped entrance therein for a jewelry post 10, two facing spring fingers 4 extend from the surface of the circular base plate so as to inherently frictionally engage the jewelry post and two tabs 7 inherently acting as gripping tabs to aid in removal of the jewelry clasp. The difference is that the gripping tabs are shorter than the spring fingers. However, Brumbach (figure 2) suggests placing extending gripping tabs 5 which extend further than the spring fingers engaging the post so as to be more accessible. As it would be beneficial to make grasping the gripping tabs easier so as more readily attach or detach the jewelry clasp, it would have been obvious to modify the jewelry clasp of JP 2001-17211 so that the gripping tabs

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extend further than the spring fingers in view of Brumbach suggesting such structure as being desirable so as to make the gripping tabs more accessible. As to claim 7, Brumbach suggests a linear member 5 looped to form a finger tab and while not stated as being wire, the narrow configuration shown in figure 2 would suggest a wire configuration as being an aesthetically desirable configuration.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-17211 in view of Rissin (US 5906114).

JP 2001-17211 (figures 1-3) teaches jewelry clasp structure including a circular base plate with an opening 3 with a funnel-shaped entrance therein for a jewelry post 10, two facing spring fingers 4 extend from the surface of the circular base plate so as to inherently frictionally engage the jewelry post and two tabs 7 inherently acting as gripping tabs to aid in removal of the jewelry clasp. The difference is that it lacks a stabilizer. However, Rissin (figures 4a, 4b) teaches that it is desirable to add a stabilizer to a frictionally securable jewelry clasp so that earrings of greater weight and size can be worn comfortably. It would have been obvious to modify the jewelry clasps of JP 2001-17211 so that it includes a stabilizer in view of Rissin suggesting that it is desirable to add a stabilizer to a frictionally securable jewelry clasp so that earrings of greater weight and size can be worn comfortably.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over either JP 2001-17211 in view of Burkett (US 4630453) or JP 2001-17211 in view of Brumbach (US 1201549) as applied to claim 9 above, and further in view of Rissin (US 5906114).

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Further modification of the earring of JP 2001-17211 such that it includes a stabilizer would have been obvious in view of Rissin (figures 4a, 4b) suggesting that it is desirable to add a stabilizer to a frictionally securable jewelry clasp so that earrings of greater weight and size can be worn comfortably.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tobita (US 5669239) in view of Burkett (US 4630453).

Tobita (figures 1, 4) teaches jewelry clasp structure including a circular base plate 10 with an opening 11 therein for a jewelry post, two facing spring fingers 9 separated by slits 12 so as to frictionally engage the jewelry post and two finger tabs 10a extending entirely outward to aid in removal of the jewelry clasp. The finger tabs are wider than the spring fingers. The engagement with the post inherently includes friction. The difference is that the gripping tabs are shorter than the spring fingers and the spring fingers don't extend from opposed ends of the second surface at ninety degrees to the gripping tabs. However, Burkett (figure 1) teaches jewelry clasp structure including a base plate 3 with an opening 11 therein for a jewelry post, two facing spring fingers 2 extending from opposed ends of the base plate so as to frictionally engage the jewelry post and two finger tabs 5 extending from the base plate 3 via the wings 4 at ninety degrees to the spring fingers to aid in removal of the jewelry clasp while functioning superiorly. The gripping tabs extend beyond the spring fingers so as to be more accessible. It would have been obvious to modify the jewelry clasp of Tobita so that the gripping tabs extend further than the spring fingers and have the spring fingers extending from opposed ends of the second surface at ninety degrees to

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the gripping tabs in view of Burkett suggesting such structure so as to be more accessible and function superiorly.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tobita (US 5669239) in view of either Burkett (US 4630453) as applied to claim 9 above, and further in view of Rissin (US 5906114).

Further modification of the earring of Tobita such that it includes a stabilizer would have been obvious in view of Rissin (figures 4a, 4b) suggesting that it is desirable to add a stabilizer to a frictionally securable jewelry clasp so that earrings of greater weight and size can be worn comfortably.

### ***Response to Arguments***

Applicant's arguments filed September 12, 2003 have been fully considered but they are not persuasive. In regard to claim 9, applicant states only "Applicant has also amended claim 9 to overcome the prior art, and asserts that claims 14-17, depending on claim 9, are patentable" (remarks, page 7, lines 9-11). Applicant does not point out the specific distinctions believed to render the newly presented claims, patentable over any applied references and the rejections based on Tobita stand.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on M, W & F 5:30-1:30, T 5:30-2:00 & TH 5:30-4:00.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'JRB', is positioned above the printed name of the examiner.

James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB